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OCT 20 2010

OFFICE OF PETITIONS

In re Application of
Bruce Karl Thor
Patent Number: 7,718,705
Issue Date: 05/18/2010
Application No. 10/049427
Filing or 371(c) Date: 05/06/2002
Attorney Docket Number: D4220-78-PUS

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: DECISION ON REQUEST
: FOR RECONSIDERATION OF
: PATENT TERM ADJUSTMENT
: and
: NOTICE OF INTENT TO ISSUE
: CERTIFICATE OF CORRECTION

This is a decision on the petition filed on July 16, 2010, under 37 CFR 1.705(d), requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by one thousand three hundred thirty-six (1336) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by one thousand three hundred thirty-six (1336) days is **GRANTED to the extent indicated herein**.

As to the "B" delay, the period is 511 days, not 512 days. This period is based on the failure of the Office to issue a patent within three years after the national stage commenced under 35 U.S.C. 371(b) or (f). See 1.702(b). The priority date of this application is September 13, 1999, and the period begins March 4, 2005, and ends on July 27, 2006, the day before the RCE was filed, and is 511 days. See, 35 U.S.C. 154(b)(1)(B)(i).

Moreover, the "B" delay period does not include the number of days beginning on the date on which a notice of appeal to the Board of Patent Appeals and Interferences was filed under 35 U.S.C. 134 and § 41.31, and ending on the day before the RCE was filed, or 115 days. See, 35 U.S.C. 154(b)(1)(C)(iii). Thus, the "B" delay period is 396 days (511 days – 115 days), not 512 days.

Finally, as to the period of overlap, there is no overlap between the "A" delay period and the "B" delay period. As such, the patent term adjustment is 1227, not 1336 days.

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, patentees are given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

Nothing in this decision shall be construed as a waiver of the requirement of 35 U.S.C. 154(b)(4) that any civil action by an applicant dissatisfied with a determination made by the Director under 35 U.S.C. 154(b)(3) be filed in the United States District Court for the District of Columbia within 180 days after the grant of the patent.

The Office acknowledges submission of the \$200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The application is being forwarded to the Certificates of Corrections Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by one thousand two hundred twenty **(1220)** days.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3232.

/DLW/

Derek L. Woods
Supervisor
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT : 7,718,705 B1

DATED : May 18, 2010

INVENTOR(S) : Thor

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by 869 days.

Delete the phrase "by 869 days" and insert – by 1227 days-->